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WAYNE BERRY
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY,)	Civ. No. CV03 00385 DAE-LEK
	)	(Copyright)
Plaintiff,)	
)	
vs.	)	DECLARATION OF TIMOTHY J.
	)	HOGAN IN SUPPORT OF
	)	PLAINTIFF WAYNE BERRY'S
	)	OPPOSITION TO DEFENDANT C&S
HAWAIIAN EXPRESS SERVICE,	)	WHOLESALE GROCERS, INC.'S
INC., et al.	)	RENEWED EX PARTE MOTION
	)	FOR WRIT OF EXECUTION OR IN
	)	THE ALTERNATIVE FOR
	)	JUDGMENT CREDITOR'S BILL IN
Defendants.	)	EQUITY; EXHIBITS "A" & "B"
_____)	

I, Timothy J. Hogan, an am attorney licensed to practice before all the courts
of the state of Hawaii and am admitted to practice before this court, and hereby

declare under penalty of perjury that the following is true and accurate to the best of my knowledge and belief. If called upon to testify regarding the matters contained herein, I am competent and willing to do so.

1. Attached hereto as Exhibit “A” is a true and correct copy of letter from Michael Baumann attorney of record for the Fleming Post-Confirmation Trust (“PCT”) and co-counsel herein, Lex Smith, the PCT’s ordinary course attorney appointed in *In re Fleming Companies, Inc. et al*, Bk. No. 03-10945 MFW (Bankr. Del.) admitting at page 2 of 3 that the subject collection proceeding is stayed by the order of the Delaware bankruptcy court.

2. Attached hereto as Exhibit “B” is a true and correct copy of Lex Smith’s Affidavit of Disinterestedness filed in in *In re Fleming Companies, Inc. et al*, Bk. No. 03-10945 MFW (Bankr. Del.) on or about March 4, 2004, that at page 2 paragraph 3 admits that Mr. Smith’s work on behalf of C&S Wholesale Grocers, Inc. was done on behalf of the Debtor Fleming Companies, Inc. and under the jurisdiction of the Delaware Bankruptcy Court.

Executed at Honolulu, Hawaii, June 9, 2008.

/S/Timothy J. Hogan
TIMOTHY J. HOGAN